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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/582,626 | 07/05/2000 | ANDREAS MAIER | 00114 | 2631 |

23338 7590 02/24/2003

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EXAMINER

TSAI, HENRY

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2183

DATE MAILED: 02/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/582,626

Applicant(s)

MAIER ET AL.

Examiner

Henry W.H. Tsai

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/27/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1, 3-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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DETAILED ACTION

Response to Election/Restrictions

1. Applicant's election of Species (8), Figs. 24-25, Claims 1 and 3-40 mailed 12/27/02, Paper No. 11 is acknowledged. However, the election is not proper. Applicant indicated that claims 1, and 3-40 read upon Species (8), Figs. 24-25. Examiner does not agree with Applicant. For instance, at least claims 1-17 do not read on Figs. 24-25. This can be proved by just comparing the reference numbers quoted in the independent Claim 1 with that shown in Figs. 24-25. None of the reference numbers in claim 1 are shown in Figs. 24-25. Applicant is required to analyze the pending claims 1, and 3-40 and properly elect one species as follows.

Election/Restrictions

2. Claims 1, and 2-40 are generic to a plurality of disclosed patentably distinct species comprising:

- (1) species of Figs. 1 and 2;
- (2) species of Figs. 3-5;
- (3) species of Figs. 6-8;
- (4) species of Figs. 9 and 10;
- (5) species of Figs. 11-13;

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- (6) species of Figs. 14-17;
- (7) species of Figs. 18-23;
- (8) species of Figs. 24 and 25;
- (9) species of Fig. 26; and
- (10) species of Figs. 27-29;

3. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution even though the requirement be traversed (37 CFR 1.143).

4. Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

5. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or

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admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Henry Tsai whose telephone number is (703) 308-7600. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, Eddie Chan, can be reached on (703) 305-9712. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **TC 2100 receptionist whose telephone number is (703) 305-3900.**


7. In order to reduce pendency and avoid potential delays, Group 2100 is encouraging FAXing of responses to Office actions directly into **the Group at fax number:**

Official faxes: 703-746-7239; and

After Final faxes: 703-746-7238;

Customer Service faxes: 703-746-7240.

This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 2100 will be promptly forward to the examiner.



HENRY W. H. TSAI
PRIMARY EXAMINER

February 19, 2003